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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,482	07/25/2001	Tony Davis	5290	4384

6858 7590 06/16/2004

BREINER & BREINER
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ALEXANDRIA, VA 22314

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,482

Applicant(s)

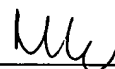
DAVIS ET AL.

Examiner

Rob Rhode

Art Unit

3625



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5 & 6</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 101

Regarding claims 1 - 4, these claims fail to fall within one of the statutory classes of invention set forth in 35 USC 101. Although the preambles of claims 1 – 4 recite a “system”, there are no corresponding recitations of any structural elements which as associated in any way that moves to define the recited “system” in a manner which places the invention of the claims 1 – 4 within any of the statutory classes of invention pursuant to 35 USC 101.

In Claims 5 - 8, the claimed invention is directed to non-statutory subject matter. The claim is directed to a process that does nothing more than manipulate an abstract idea. There is no practical application in the technological arts. See *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974). For example in claim 5, the invention in the body of the claim does not recite the use of nor incorporate any technology in carrying out the recited method steps and therefore is not statutory. If the invention in the body of the claim is not tied to the technological arts, environment or machine, the claim is not statutory. See *Ex parte Bowman*, 61 USPQ2d

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1665, 1671 (BD. Pat. App. & Inter. 2001) [Unpublished] and note MPEP 2106 IV 2(b).

While Bowman is not precedential, it has been cited for its analysis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 5, 8, 9 and 12 are rejected under 35 U.S.C. 102(e) as being unpatentable over DiAngelo (US 6,101, 482).

Regarding claim 1 and related claims 5 and 9, DiAngelo teaches a method and system for purchasing products from a plurality of unrelated merchants offering products for purchase through electronic commerce systems, said method comprising: obtaining information from a target merchant relating to available products for purchase, said target merchant being at least one of the plurality of unrelated merchants (see at least Abstract and Col 1, lines 7 – 12 and 62 – 67); and providing the target merchant with a purchase request made on behalf of the purchaser (see at least Col 1, lines 65 – 67 and Col 2, lines 1 – 3).

Regarding claim 4 and related claims 8 and 12, DiAngelo teaches a method and system wherein the step of providing the target merchant with a purchase request includes: checking product and purchaser information to determine if sufficient information has been provided for a purchase transaction (Col 5, lines 40 – 44); and interfacing with the target merchant to purchase the product (Col 2, lines 38 – 39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiAngelo (US 6,101,482) in view of Cockrill (US 6,473,740 B2).

DiAngelo discloses and teaches substantially the applicant's invention.

However, DiAngelo does not specifically disclose and teach a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser; and obtaining information about the purchaser.

On the other hand and regarding claims 2, 6 and 10, Cockrill teaches a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser (see at least Abstract); and obtaining information about the purchaser (Figure 8).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of DiAngelo with the method and system of Cockrill to have enabled a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser; and obtaining information about the purchaser – in order for the shopper to gather the necessary information as well as allowing the merchant to obtain information regarding a shopper. DiAngelo discloses a a method and system for purchasing products from a plurality of unrelated merchants offering products for purchase through electronic commerce systems, said method comprising: obtaining information from a target merchant relating to available products for purchase, said target merchant being at least one of the plurality of unrelated merchants; and providing the target merchant with a purchase request made on behalf of the purchaser (Abstract and Col 1, lines 7 – 12 and 62 – 67). Cockrill discloses a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser; and obtaining information about the

purchaser (Abstract and Figure 8). Therefore, one of ordinary skill in the art would have been motivated to extend DiAngelo with a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser (see at least Abstract); and obtaining information about the purchaser. In this regard, the shopper's satisfaction will be increased as a result of the ability to shop at multiple online sites as well as providing useful information to a merchant. With the increased satisfaction of the shopper, the probability will be increased that the shopper will return to use the method and system in the future. Moreover, the information provided to the merchant would enable the improvement in the site - to ensure it satisfies the online shoppers needs.

Claims 3, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DiAngelo and Cockrill as applied to claims 2, 6 and 10 above, and further in view of Herz (US 6,571,279 B1).

The combination of DiAngelo and Cockrill discloses and teaches substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein the step of gathering product information includes; gathering a location on an electronic commerce system of the target merchant of product information for the product to be purchased on the electronic commerce system.

On the other hand and regarding claims 3, 7 and 11, Herz teaches a method and system wherein the step of gathering product information includes; gathering a location on an electronic commerce system of the target merchant of product information for the product to be purchased on the electronic commerce system (see at least Abstract and Col 1, lines 16 – 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of DiAngelo and Cockrill with the method and system of Herz to have enabled wherein the step of gathering product information includes; gathering a location on an electronic commerce system of the target merchant of product information for the product to be purchased on the electronic commerce system – in order to provide location specific product information. The combination of DiAngelo and Cockrill disclose a method and system for purchasing products from a plurality of unrelated merchants offering products for purchase through electronic commerce systems, said method comprising: obtaining information from a target merchant relating to available products for purchase, said target merchant being at least one of the plurality of unrelated merchants; and providing the target merchant with a purchase request made on behalf of the purchaser as well as a method and system wherein the step of obtaining information from the target merchant includes: gathering product information from the target merchant for a product to be purchased by the purchaser; and obtaining information about the purchaser. Hertz discloses a method and system

wherein the step of gathering product information includes; gathering a location on an electronic commerce system of the target merchant of product information for the product to be purchased on the electronic commerce system (Abstract). In this manner, the combining of the off line and on line capabilities will significantly enhance the shopping process and increases the online shoppers satisfaction. Thereby, the increased satisfaction will increase the probability that the shopper will recommend the site to others.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

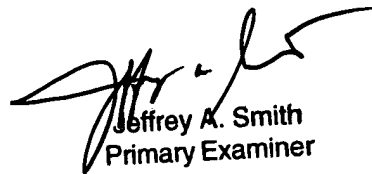
or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, 7th floor receptionist.

RER



Jeffrey A. Smith
Primary Examiner